

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JUDGE'S COPY

JOHN RICHARD JAE,  
Plaintiff,

vs.

KENNETH D. KYLER, et al.,  
Defendants.

FILED  
HARRISBURG

SEP 07 2001

MARY E. D'ANDREA, CLERK  
Per                       
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Civil No. 1: CV-00-0215  
U.S. District Judge R.  
Magistrate Judge Smyser

PLAINTIFF'S REPLY TO DEFENDANTS' BRIEF IN OPPOSITION TO  
PLAINTIFF'S MOTION TO COMPEL

Comes Now, the Plaintiff & his counsel in the above entitled case, Richard Jae, a Layman Unlettered in the Arts & Sciences of the Law & Legal Practice within the United States & now pursuant to this Court's M.D.L.R. 2.7, file Plaintiff's Reply to Defendants' <sup>Memorandum</sup> ~~Memorandum~~ In Opposition to Plaintiff's Motion to Compel, herein, & who, avers, deposes & states:

That, on or about June 22, 2001, Plaintiff John Richard Jae, filed Motion to Compel Discovery And a Brief in Support of Motion to Compel Discovery, hereinafter referred to as the Motion to Compel.

That, on or about August 3, 2001, Defendants, by Counsel, filed the Motion, requesting an enlargement of time until August 24, 2001, to file their brief in opposition to Plaintiff's motion to compel, which Court granted, on August 6, 2001.

That, on or about August 24, 2001, Defendants, by Counsel, filed Second Motion, requesting another enlargement of time until August 27, 2001, to file their Brief in opposition to Plaintiff's motion to compel, which the Court granted.

That on or about August 27, 2001, Defendants, by Counsel, filed their <sup>Memorandum</sup> ~~Memorandum~~ In Opposition to Plaintiff's Motion to Compel.

That this is the Plaintiff's Reply to Defendants' <sup>Memorandum</sup> ~~Memorandum~~ In Opposition to Plaintiff's Motion to Compel.

ARGUMENT

Plaintiff John Richard Jae avers & submits that, it is in the interest of justice that the Prison Address of Inmate Robert

Adams, #CQ-2185, because he has information & knowledge relevant to the facts & claims of this case and his testimony is needed for trial in this case. Specifically, it is believed by this Plaintiff that Inmate Robert Adams' testimony will support the Plaintiff's version of the facts & claims stated in the Plaintiff's initial complaint in this case, as Inmate Robert Adams was confined in the prison at Camp Hill during the relevant time periods as stated in the initial Complaint. Because Discovery is closed in this case, the Plaintiff needs such information now, as he will be unable to obtain such at a later date due to discovery in this case being close. Furthermore, Plaintiff avers & submits that he does not wish to obtain the prison address of Inmate Robert Adams for any improper purpose(s), such as arranging an attack on such Inmate, only for the purpose(s) stated above and any contention to the contrary is nothing more than the unsupported speculation, paranoid contention of the Secretary of Corrections who is a pathological liar & who has a long & lengthy history of violating Inmates' Rights and the Law. Furthermore, it is absurd to expect this Court to be able to issue a subpoena or writ of Habeas Corpus Ad Testificandum to compel attendance of Inmate Robert Adams, #CQ-2185, at trial in this case, unless this Plaintiff supplies this Court with Robert Adams' prison address for such subpoena or writ. Plaintiff has now been litigating in the Federal courts for 20 years and he has never heard of such a subpoena or writ being issued by a Federal court the way that the Defendant and Secretary Beard suggest herein this case. Although the Defendants and Secretary Beard claim that it is the policy of the Pennsylvania Department of Corrections that staff do not disclose the whereabouts of one inmate, it is well known that the staff of the Pennsylvania Department of Corrections, PH.D.,

and that often, an inmate seeks the location of another inmate in order to engineer an attack against that inmate. Retaliation for a prior wrong or for other reasons, 2/ they failed to offer any policy and/or other evidence at all that it is so or, that such is so here in this case. Subjudice, have they offered any evidence or proof at all that such is this Plaintiff seeks Inmate Robert Adams, #00-2185 address nor that Inmate Robert Adams is afraid of Plaintiff nor even that Robert Adams does not wish to have his address disclosed to Plaintiff Joe and Plaintiff Joe, not believe nor do the Defendants or Secretary Beam that they even bothered to ask Inmate Robert Adams # about such and therefore, their unsupported contentions especially ludicrous, specious & frivolous, herein & such disregard/denied by this Court.

Furthermore, the Defendants' citation of reliance upon case of: Clark v Township of Falls, 124 F.2d 91, 93 (E.D. Pa. 1941) is, such as states that ("The prior not absolute, and should be upheld only if the damage to executive department or the public interest outweighs to plaintiffs from non disclosure"). and Defendants failed to show herein this case that there will be a damage to an executive department or the public interest and that the harm this Plaintiff will suffer, herein non disclosure from the production of Robert Adams' prison address and furthermore, Inmate Robert Adams is not an executive department. Furthermore, Plaintiff properly cite and rely upon the prior case of: Abbott v. 490 U.S. 401, 407-08 (1989) and Jones v. North Carolina, 137 F.2d 1011, 1012 (4th Cir. 1944) however, such

pertain to discovery, not to a motion to compel discovery, and, as no federal court has ever held that a federal court may afford considerable deference to prison officials in deciding prisoners' motions to compel discovery, Defendants' citations in reliance upon such two cases, herein this case, is in.

Furthermore, Plaintiff also avers & submits that the Defendant argues "the government privilege, sometimes referred to as the deliberative process, executive or law enforcement privilege, precludes disclosure would 'seriously hamper the function of government.'" Siegrist v. City of Easton, 146 F.R.D. 98, 101-02 (E.D. Pa. 1992); Clark v. Township of Falk, 124 F.R.D. 91, 92 (E.D. Pa. 1990); Frankenhauser v. Rizzo, 59 F.R.D. 330, 332 (E.D. Pa. 1972). However, the Defendants have failed to show, herein this case, exactly how the disclosure to this Plaintiff of the address of Inmate Robert Adams, #CQ-2185, would seriously hamper the function of government, as Inmate Robert Adams, #CQ-2185, is not a government and, thus, the argument here must fail.

Finally, the Plaintiff avers & submits that, "the government privilege does not cover everything that officials may want to keep secret. It is designed to protect 'deliberative and decision making process of government officials' and 'investigative reports of an administrator to the extent that they reflect a view rather than factual material.'" See Kinoy v. Mitchell, 67 F.R.D. 1, 101 (S.D. N.Y. 1987) (footnote omitted); accord, Kelly v. City of San Jose, 114 F.R.D. 659 (N.D. Cal. 1987). Also, see Kinoy v. Mitchell, 67 F.R.D. at 12 (S.D. N.Y. 1987); Wood v. Brier, 54 F.R.D. 7 (E.D. Wis. 1972); Boyd v. Gullett, 64 F.R.D. 17 (Md. 1974) and Black v. Sheraton Corp. of America, 47 F.R.D. 263, 264 (1969). The Congressional policy in favor of broad enforcement of the civil rights laws supports complete discovery when the violation is alleged.

Plaintiff also incorporates hereby by reference hereto the facts, arguments & citations of authorities of this brief in support of Plaintiff's motion to compel discovery, herein this case.

(W) HEREBY, based upon the foregoing, herein,  
well as upon the facts, arguments & citations of authority  
Plaintiff's ~~brief~~ In Support of Motion To Compel DFO  
this Court should grant such Motion To Compel and order  
Defendants to immediately provide the Plaintiff with  
Prison address of Inmate Robert Adams, #CQ-2185 =

RESPECTFULLY SUBMITTED =

(S) ~~John Richard JAE~~  
MR. JOHN RICHARD JAE,  
#BQ-3214  
SCI - GREENE/SMU  
175 Progress Drive  
Waynesburg, PA. 15370-2002

Dated: 30th AUGUST 2001 =

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